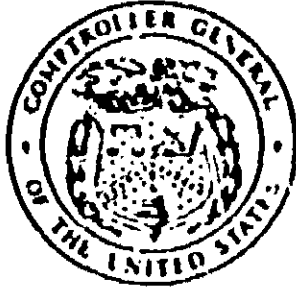


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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

**FILE:** B-186663

**DATE:** October 22, 1976

**MATTER OF:** Stahl Soap Corporation

**DIGEST:**

Where IFB for laundry soap contained "moisture adjustment payment clause" no longer adequately reflecting agency's actual needs, reasonable basis existed to cancel IFB.

Stahl Soap Corporation (Stahl) protests the rejection of its bid as nonresponsive and the cancellation of invitation for bids (IFB) 9PR-W-826-76/KU for laundry soap, issued on March 4, 1976, by the General Services Administration (GSA), Region 9, San Francisco, California.

GSA reports that Stahl's bid was rejected because it deviated from the applicable Federal specification P-S-591(G), dated December 28, 1965, as modified by amendment No. 1 dated September 22, 1967, by indicating in the bid that it would supply the soap (for "Level B" shipments) in a "case liner to be a polyethylene bag of 2 mil construction and lockseam closed." GSA states that since the next low bid under the IFB was deemed excessive as to price, the determination was made to cancel the IFB and readvertise the requirement.

Prior to issuing the new IFB, GSA states that a new specification for soap (P-S-591(H) dated February 10, 1976) had been developed and approved for use which substantially changed the method of payment by deleting a "moisture adjustment payment clause" and basing payment on the unit of issue. GSA stated that this change was made in order to prevent the Government from paying for unnecessary amounts of water in the soap and was implemented pursuant to an earlier recommendation from our Office. GSA states that this new specification was not available in time for the issuance of the original IFB.

The resolicitation was issued on July 6, 1976, and contained the new specification. Bid opening was set initially for August 6, 1976. However, telephone conversations between the president of

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Stahl and a representative of GSA revealed that on the resolicitation, Stahl intended to bid on the basis of supplying the same type of case liner which led to the rejection on the original IFB. After inquiry, the Federal Supply Service's Office of Standards and Quality Control informally advised counsel for GSA that it had been their intent to prohibit the use of case liners in the new specification. The new IFB did not specifically prohibit the use of case liners for "Level B" shipments. Therefore, the new IFB was amended to prohibit the use of case liners and the opening date was changed to August 16.

Stahl contends that no compelling reason exists for canceling the original IFB and that it should be reinstated and award made to Stahl as the low responsive bidder. In support of its position, Stahl states that its qualification by offering a polyethylene bag of 2 mil construction is trivial and immaterial to the quality of the soap or the overall packaging, has no effect on quantity, quality, or delivery and has, at most, a trivial impact on price. Further, Stahl contends that waiver of its qualification would not prejudice or affect the relative standing of bidders. Stahl further contends that the only difference between the original IFB and the resolicitation is the deletion of the moisture adjustment clause and the elimination of the case liner which Stahl contends is an immaterial change.

Regarding cancellation of an invitation after bids are opened, Federal Procurement Regulations (FPR) § 1-2.404-1(a) (1964 ed. circ. 1) states:

"(a) Preservation of the integrity of the competitive bid system dictates that, after bids have been opened, award must be made to that responsible bidder who submitted the lowest responsive bid, unless there is a compelling reason to reject all bids and cancel the invitation \* \* \*."

FPR § 1-2.404-1(b)(1) provides for cancellation when inadequate, ambiguous, or otherwise deficient specifications were cited in the invitation for bids.

We recognize that the contracting officer is afforded broad authority to reject all bids and readvertise. Revision of specifications for one of the foregoing reasons in FPR § 1-2.404-1(b)(1) is a "compelling reason" for rejecting all bids and readvertising a procurement and our Office will not object to such a determination unless it

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is arbitrary, capricious, or not based upon substantial evidence. See B-178946, October 11, 1973. The record before us indicates that there was a reasonable basis to cancel the original IFB.

The new solicitation contained a new specification P-S-591(H) which changed the method of payment by deleting a "moisture adjustment payment clause" and basing payment on the unit of issue. As noted above, GSA reports that this change was made in order to prevent the Government from paying for unnecessary amounts of water in the soap and was implemented pursuant to an earlier recommendation from our Office. Although the new specification is dated February 10, 1976, GSA reports that it was not available in time for the issuance of the original IFB. The GSA Assistant Commissioner of Standards and Quality Control reports that in revising specification P-S-591(H), it was their intention to prohibit the use of case liners for Level "B" packing. It is reported that the reason for this prohibition is that the formulation of the soap permits a maximum moisture content of 36 percent. Therefore, if this soap, with or near this moisture content, is packed in a case liner and the liner sealed, the subsequent release of moisture, within the liner, will cause the bars of soap to coalesce.

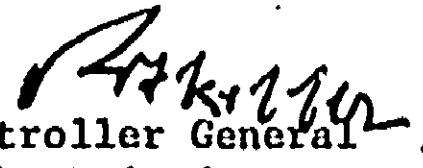
Stahl states that a review of the new specification reveals that for Level "A" packing case liners are required whereas they are prohibited for Level "B" packing. Stahl questions the reasonableness of such a position. We have been advised by GSA that its personnel are meeting with representatives of the Department of Defense to determine whether the case liners should also be deleted when Level "A" packing is involved. However, the fact that case liners are required for Level "A" packing does not affect the validity of the cancellation of the IFB, since there was a change in requirements that provided a basis for cancellation.

In the circumstances of this case, we believe that the original invitation's failure to delete the moisture adjustment clause, which in turn required the prohibition of the case liners for Level "B" packing, constituted a compelling reason for canceling the initial IFB. It is unfortunate that the new specification dated February 10 was not included in the original IFB issued on March 4, 1976. However, this circumstance, as well as any possible misunderstanding Stahl may have had regarding the acceptability of a case liner, does not alter

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the fact that the actual needs of the Government were not adequately defined in the original IFB. Based on the record before our Office, an award under the initial invitation which did not delete the moisture adjustment clause would be improper since the Government's actual needs would not have been satisfied. See General Leasing Corporation, B-185477, March 19, 1976, 76-1 CPD 187; B-178946, supra.

Accordingly, the protest is denied.

  
Deputy Comptroller General  
of the United States